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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,131	01/22/2002	Michael R. Grubbs	N-8076	1527

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WADDEY & PATTERSON
414 UNION STREET, SUITE 2020
BANK OF AMERICA PLAZA
NASHVILLE, TN 37219

EXAMINER

NGUYEN, TUAN N

ART UNIT PAPER NUMBER

3653

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055131

Applicant(s)

Grubbs et al.

Examiner

Tuan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/22/02
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-32 and 59-64 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-32 and 59-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

1. Claims 16-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, lines 1 and 3, the terms "adapted for" and "adapted to" have no clear technical meaning. Further, the use of these terms do not particularly point out the invention since applicants have not claimed how the conventional elements are modified in accordance with the invention.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 16-32 and 59-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur et al. (newly cited) in view of Golicz et al. (cited in 09/302,707).

Wilbur et al. disclose an apparatus and a method for handling light-weight and flat articles comprising an acceleration conveyor 18 (fig. 2); a product conveyor (unnumbered conveyor in area A) downstream of the acceleration conveyor; a transition (unnumbered) between the acceleration and product conveyor; and a blowing system 12 operatively positioning to facilitate to carry the articles across the transition. Wilbur et al. further have a sorter 28 and 30 comprising a sensor 88 or 90 and a rejector 114; and the product conveyor having a transition end proximate the transition and a curved transition plate (unnumbered plate at the left). However, the articles of Wilbur et al. are not papers and Wilbur et al. do not have a pinning structure.

Golicz et al. disclose an apparatus and a method for handling paper comprising an acceleration conveyor 16, 18, 20, 22, 24 and 26; and a pinning structure 70 and 72.

It would have been obvious to one skill in the art to modify the articles of Wilbur et al. to have paper articles as taught by Golicz et al.. Such modification constitutes an intended use since tobacco leaves articles of Wilbur et al. have similar shape and size as paper articles. Also, it would have been obvious to one skill in the art to modify the acceleration conveyor of Wilbur et al. to have a pinning structure as taught by Golicz et al. to hold-down the paper onto the conveyor for further testing and detecting (Golicz et al., column 8, lines 26-51).

4. The IDS (PTO-1449) filed on January 22, 2002 has been considered. A copy is attached hereto.

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5. Any inquiry concerning this communication should be directed to Examiner Tuan Nguyen at telephone number (703) 308-3664.



TUAN N. NGUYEN
PRIMARY EXAMINER

5/3/02

tnn,

May 03, 2002.